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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,403	03/08/2004	Michelle Allen	50108-181	9023
20277 7590 12/23/2010 MCDERMOTT WILL & EMERY LLP 600 13TH STREET, N.W. WASHINGTON, DC 20005-3096				
EXAMINER				
TAKLE, MESEKER				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/796,403

**Applicant(s)**

ALLEN ET AL.

**Examiner**

MESEKER TAKELE

**Art Unit**

2175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 74-75, 77-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 74-75, 77-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is responsive to the RCE and Amendment filed 09/08/2010.
2. Claims 74-75, 77-87 are pending in this application. Claim 74 is independent claims. Claims 1- 73 and 76 are canceled and Claims 81-86 are amended.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### **Claim Rejections - 35 USC § 103**

4. **Claims 74-75, 77-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Venturino (US Pub No.: 2004/0051741) in view of Gardner (US Pub No.: 2005/0076312) and in further in view of Anderson et al. ("Anderson" US Patent No.: 4,291,198, applicant IDS).**

**As to claim 74,** Venturino discloses a cellularly communicative device comprising a display (such as, cell phones, personal digital assistants, portable computers and the like, paragraph [0012]),

a keypad including a plurality of alpha or numeric keys and a dynamically assignable function key (such as, digital buttons 84-102, menu buttons, 84, navigate button 86, hotkey button 88, Figure 2, paragraph [0012], Such as, alphanumeric characters, paragraph [0029]);

(b) a key assignment area displaying a function of the cellular communicative device associated with the selected choice, dynamically assigned to the function key of

the cellular communicative device (such as, setting hotkey functions, paragraph [0206-0209]).

However Venturino does not explicitly disclose wherein the dynamically assignable function key is not one of the alpha or numeric keys of the keypad; and

A processor programmed to implement:

(1) a first process thread, involving displaying a first screen on the display, the first screen concurrently comprising:

(b) on a second area of the displayed first screen, a second level menu of choices for user selection from within a selected one of the functional groupings of the first level menu

(2) a second process thread, responsive to a cursor control input from a user, involving moving a cursor on the display across at least the second level menu to indicate a selection of one of the choices on the displayed second level menu and

(3) a third process thread, responsive to a user acceptance of the selected one of the choices, involving displaying a second screen on the display, the second screen concurrently comprising:

(a) an area containing information relating to the selected choice; and

(b) a key assignment area displaying a function of the cellularly communicative device associated with the selected choice, dynamically assigned to the function key of the cellularly communicative device,

wherein the processor is programmed to cause the cellularly communicative device to perform the dynamically assigned function associated with the selected choice, upon user activation of the function key during the display of the second screen.

Gardner from the similar field of endeavor discloses wherein the dynamically assignable function key is not one of the alpha or numeric keys of the keypad (such as, dynamically generated menu 30, that lets users easily expand or collapse a multilevel hierarchical structure 40 to a specific level of expansion, paragraph [0017]); and

A processor programmed to implement:

(1) a first process thread, involving displaying a first screen on the display (Figure 1, abstract), the first screen concurrently comprising:

(b) on a second area of the displayed first screen, a second level menu of choices for user selection from within a selected one of the functional groupings of the first level menu (such as, Figure 1 (element 20));

(2) a second process thread, responsive to a cursor control input from a user, involving moving a cursor on the display across at least the second level menu to indicate a selection of one of the choices on the displayed second level menu (such as, Figure 1 (element 30); and

(3) a third process thread, responsive to a user acceptance of the selected one of the choices, involving displaying a second screen on the display, the second screen concurrently comprising (paragraph [0018]):

(a) an area containing information relating to the selected choice (such as, Figure 1 (element 30); and

wherein the processor is programmed to cause the cellularly communicative device to perform the dynamically assigned function associated with the selected choice, upon user activation of the function key during the display of the second screen (such as, Icon 10 in figure 1, while the "+" symbol is displayed causes the descendant nodes 20a

directly under the selected node 20' to display and the multilevel expand/collapse navigation aid also provides an unobtrusive mechanism, in the form of a dynamically generated menu 30, that lets users easily expand or collapse a multilevel hierarchical structure 40 to a specific level of expansion, paragraph [0017]).

It would have been obvious to one of ordinary skill in the art to modify Venturino's teaching with the teaching of Gardner to provide a navigation aid that allows a specific branch of a multilevel hierarchical structure to be expanded (or collapsed) multiple display levels with a single action.

However Venturino in view of Gardner do not explicitly discloses  
(a) a first level menu providing a plurality of functional groupings for user selection on a first area of the displayed first screen (b) a key assignment area displaying a function of the device associated with the selected choice, dynamically assigned to the function key of the device.

Anderson from the similar field of endeavor discloses (a) a first level menu providing a plurality of functional groupings for user selection on a first area of the displayed first screen (Figure 10) and col14, lines, 35-60) (b) a key assignment area displaying a function of the device associated with the selected choice, dynamically assigned to the function key of the device (Figure 10) and col14, lines, 35-60).

It would have been obvious to one of ordinary skill in the art to modify Venturino's and Gardner teaching with the teaching of Anderson to enable users to have program guided access to computer based service.

However Venturino in view of Gardner and in further in view of Anderson do not explicitly discloses (a) cellularly communicative electronic device,

(b) wherein: each of the functional groupings represents a different group of cellular device functions offered by the cellularly communicative electronic device (abstract), and the cellular device functional groupings include call messaging, contacts list, obtaining device services, recent calls, and settings and tools.

McZeal from the similar field of endeavor discloses (a) cellularly communicative electronic device (abstract) (b) wherein: each of the functional groupings represents a different group of cellular device functions offered by the cellularly communicative electronic device, and the cellular device functional groupings include call messaging, contacts list, obtaining device services, recent calls, and settings and tools (abstract, Figure 2 and Figure 18).

It would have been obvious to one of ordinary skill in the art to modify Venturino's, Gardner and Anderson teaching with the teaching of McZeal to provide uniformed global wireless communications, eliminates traditional long distance costs, and operates anywhere on earth.

**As to claim 75.** Venturino discloses wherein: the processor is further programmed to implement a fourth process thread, the fourth thread involving presenting to the user on the display a system background display screen, and the background display screen is selectable by the user.

**As to claim 77.** Venturino discloses wherein the first level menu includes icons visually evocative of the respective functional groupings (paragraph [0078]).

**As to claim 78.** Venturino discloses wherein the displayed second level menu presents choices arranged in a prescribed order (abstract and paragraph [0005]).

**As to claim 79.** Venturino discloses wherein the prescribed order is a function of a previous user selection of the one or more of the choices (abstract, paragraph [0005], [0078] and [0123]).

**As to claim 80.** Venturino discloses wherein the prescribed order is a function of frequency of previous user selections of the one or more of the choices (Paragraph 0199).

**Claim 81,** is similar in scope to claim 1 respectively, and is therefore rejected under similar rationale. McZeal further disclose the second level menu includes choices selected from the group consisting of: creating a message, voicemail, inbox, outbox, draft messages, e-mail messages and instant messages (abstract, Figure 2 and Figure 11).

**Claim 82,** is similar in scope to claim 1 respectively, and is therefore rejected under similar rationale. McZeal further disclose the second level menu includes a for-pay service choice (col., 56 lines, 10-15).

**Claim 83,** is similar in scope to claim 1 respectively, and is therefore rejected under similar rationale. McZeal further disclose the second level menu includes choices selected from the group consisting of: receiving music, receiving games, receiving



Art Unit: 2175

pictures, receiving movies, receiving news, and receiving information (col., 56 lines, 10-15).

**Claim 84**, is similar in scope to claim 1 respectively, and is therefore rejected under similar rationale. McZeal further disclose the second level menu includes choices selected from the group consisting of: new contacts, contacts list, groups, and speed dial (Figure 2, Figure 18 and Figure 25).

**Claim 85**, is similar in scope to claim 1 respectively, and is therefore rejected under similar rationale. McZeal further disclose the second level menu includes choices selected from the group consisting of: all calls, missed calls, received calls, and numbers called dial (figure 30- Figure 36).

**Claim 86**, is similar in scope to claim 1 respectively, and is therefore rejected under similar rationale. McZeal further disclose the second level menu includes choices selected from the group consisting of: device tools, device modes, device settings, call settings, system settings, accessories, time settings, and date settings (abstract, Figure 2 and Figure 24).

**As to claim 87**, Gardner discloses wherein the key assignment area of the second screen displays a plurality of functions dynamically assigned to a plurality of the keys of the keypad (such as Figure 1 (element 10)).

**Response to Arguments**

Applicant argues on page 8 of arguments filed 9/8/2010 that Venturino does not teach a keypad that has alpha or numeric keys. The examiner disagrees. Venturino teaches a keypad including a plurality of alpha or numeric keys and a dynamically assignable function key as explained in the instant rejection.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MESEKER TAKELE whose telephone number is (571)270-1653. The examiner can normally be reached on Monday - Friday 7:30AM-5:00PM est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore can be reached on (571) 272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2175

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/Meseke Takele/  
Examiner, Art Unit 2175

/William L. Bashore/  
Supervisory Patent Examiner, Art Unit 2175